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Senator John Brueggeman

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Subject: John Brueggeman has sent you an IBJ Article

Your Friend "John Brueggeman(john@flatheadtechnology.com)(Helena , MT - US)" has chosen to send you this article:

Suit boosts Hilbert's foul-play fears

Insurer: Outsiders took out $15M policy on mother-in-law

Hilbert

Indianapolis businessman Steve Hilbert fears foul play in the recent death of his mother-in-law—a suspicion fueled by a new federal lawsuit alleging a woman by the same name was caught up in a $15-million life insurance fraud scheme.

Though he acknowledges having no hard evidence, Hilbert said he has asked law enforcement authorities to reopen their investigation into the Sept. 28 death of Germaine "Suzy" Tomlinson, 69, mother of his wife, Tomisue.

The Indianapolis Metropolitan Police Department so far has not done so. The department believes Tomlinson accidentally slipped in the bathtub and hit her head on the spigot, said Sgt. Matthew Mount.

But Hilbert said he was alarmed to learn from IBJ that Houston-based American General Life Insurance Co. sued the "Germaine Tomlinson Insurance Trust" and other parties in Indianapolis on Dec. 31, seeking to invalidate a $15 million policy issued in January 2006.

At issue in the case is a controversial form of coverage known as "Stranger-OriginatedLifeInsurance," or STOLI, that effectively allows outside investors to wager on when an insured person will die.

In a typical transaction, an investor entices someone, usually a senior citizen, to take out a multimillion-dollar life insurance policy. Investors pay the premiums and purchase the policy, making them the beneficiaries. In return, the insured person receives an upfront cut of the eventual death payout.

Under the arrangement, the sooner the insured person dies, the better the return for investors.

Hilbert said he hadn't known anything about Tomlinson's becoming involved in such a policy. And he said he doesn't know for sure that the Tomlinson named in the suit is the same person as his mother-in-law, but presumes she is.

"Tragically, Suzy must have gotten caught up with the wrong group of people," Hilbert said. "But she was certainly a victim in this … thing, that's for sure."

The situation, he added, is "like a script of a CSI episode." He said the suit caused him and Tomisue to re-evaluate the "bizarre accident" that caused her mother's death.

"Tomisue has never, ever stopped thinking that there potentially could have been foul play in her mother's death," said Hilbert, a former CEO of Conseco Inc. who now leads MH Equity Investors.

STOLI policies are legal in most of the United States, and were in Indiana until the General Assembly barred them last year, becoming the second state to do so.

In its lawsuit, AIG is not alleging anything suspicious about Tomlinson's death. Rather, it is charging the coverage is invalid because defendants committed fraud in the insurance application by making it appear as though the coverage was solely for the benefit of Tomlinson and her family.

"In fact," the suit alleges, "the Trust posed as a legitimate owner/applicant for the Policy in order to fraudulently induce American General to issue the Policy with the intent of all Defendants from the beginning of these transactions to transfer and/or sell the Policy to other named and/ or unnamed investors."

The lawsuit charges the other defendants induced Tomlinson to take out the policy. The other defendants are Nevada-based insurance broker Geoffrey A. Vanderpal as well as the trustees of the trust—J.B. Carlson of Hamilton County, Michele Harra of Delaware and Delaware-based Wilmington Trust Co.

AIG says that under the scheme, J.B. Carlson's Indianapolis consulting fi rm, Carlson Media Group, became the policy's beneficiary. The insurer is investigating whether other investors were involved in the STOLI.

Hilbert says he's not pointing fi ngers at anyone but is concerned and wants police to investigate further.

Representatives of AIG and Wilmington Trust Co. declined to comment.

On the advice of his lawyer, J.B. Carlson declined to answer IBJ's questions. But in a statement, he said, "Obviously, we believe that case has no merit. We are working with American General to resolve it. What they presented in that legal document is simply one side of the coin."

In addition to asking the court to void the policy, AIG is seeking its permission to keep the insurance premiums it already has collected, and to charge back Vanderpal's commissions.

Taken advantage of?

A paid obituary that ran in The Indianapolis Star says Germaine "Suzy" Tomlinson was born in Paris, educated at the Sorbonne and worked as a model before marrying an American soldier and moving to the United States in 1960.

During the 1970s and 1980s, the obituary said, she operated furniture and antique stores. Tomisue is one of her six children.

The obituary notes Tomlinson's charitable activities and describes her "important role in decisions related to Hilbert Foundation gifts towards St. Vincent Hospital, Park Tudor School, the Indianapolis Symphony Orchestra and the Indianapolis Zoo."

Details of case

Date filed: Dec. 31

Plaintiff: Houston-based American General Life Insurance Co.

Defendants: Germaine Tomlinson Insurance Trust; trustees: J.B. Carlson, Wilmington, Delaware-based Wilmington Trust Co.; Michele Harra; beneficial owner: locally based Carlson Media Group; insurance broker: Geoffrey A. Vanderpal

Center of dispute: $15 million life insurance policy for Germaine "Suzy" Tomlinson (believed to be the mother of Tomisue Hilbert and mother-in-law of former Conseco Inc. CEO Steve Hilbert). American General issued the policy in January 2006; Tomlinson died Sept. 28, 2008.

Allegation: American General alleges the defendants enveloped Tomlinson in a fraudulent "stranger-originated life insurance," or STOLI scheme, which gives independent speculators a windfall stake in a large insurance policy when the insured person dies.

Hilbert called Tomlinson a "wonderful woman" who unfortunately had been taken advantage of multiple times—"but nothing to this level."

In 1996, she pleaded guilty to felony welfare fraud after investigators charged she took food stamps when she had $86,000 in the bank, Hamilton County court records show. She was sentenced to one year of home detention. In 2007, Tomlinson pleaded guilty to operating a vehicle while intoxicated and endangering a person in the process. She spent 20 days in jail on that conviction.

The Marion County Coroner's Offi ce lists Tomlinson's cause of death as asphyxia by drowning with acute ethanol intoxication as a contributing cause. The office ruled the death an accident.

Questionable incentive

Hilbert said the STOLI coverage gave investors the twisted incentive of rooting for her to die.

"Forget about legality. Let's talk about morality," he said. "Its parasites and ghouls that would be doing anything even approaching what the allegations are in that litigation."

Indiana's nine-month-old law throws up roadblocks aimed at preventing transactions where beneficiaries lack a direct connection to the insured person.

It's perfectly acceptable, for instance, for a wife to buy a policy that insures her husband's life and makes her the benefi - ciary. It's another thing entirely when outside investors try to do the same. Speculators, for example, can't buy life insurance for Bill Gates or Warren Buffett in the hopes of a huge windfall.

"You don't want to be cheering that people will die. It might become a selffulfilling prophecy," Hilbert said.

Making matters worse, insurance regulators say senior citizens sometimes don't understand what they have agreed to, including that people unrelated to their family will receive the entire windfall when a policy pays off. And in the process, the senior citizens may have forfeited the right to buy insurance intended for their own families.

"This is a time when the classic 'if it's too good to be true, don't do it' fi ts," said Indiana Department of Insurance Chief Deputy Commissioner Carol Mihalik.

"If someone comes to your house and says we'll pay the premium on this insurance policy but at the end of the day, we'll own it, call us. ... You might be getting into a situation that might be diffi cult to get out of, or somebody may be taking advantage of you."

The details of such policies can vary widely. AIG says in its lawsuit that the Tomlinson Trust created a subtrust that borrowed the money to pay the policy's premiums for the first two years. •

IBJ staff

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